



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN - 9 2011

William M. Tambussi, Esquire
Brown & Connery, LLP
360 Haddon Avenue
Westmont, NJ 08108

RE: MUR 6400
Bill Moen
Matt White
Haddon Capital Ventures LLC
Camden County Democratic
Committee

Dear Mr. Tambussi:

On October 26, 2010, the Federal Election Commission notified your clients listed above of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your clients at that time. On June 6, 2011, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe your clients, Bill Moen, Matt White and Haddon Capital Ventures LLC, violated 2 U.S.C. § 441a(a). In addition, the Commission voted to dismiss the allegations that the Camden County Democratic Committee violated 2 U.S.C. §§ 433, 434(a) and (b), and 441a(a). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analyses, which explain the Commission's findings, are enclosed for your information.

If you have any questions, please contact April J. Sands, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Mark Allen
Assistant General Counsel

Enclosures
Factual and Legal Analyses

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR 6400

RESPONDENTS: Camden County Democratic Committee
Bill Moen
Matt White

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by the New Jersey Republican State Committee. *See* 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

The complaint alleges that the Camden County Democratic Committee ("CCDC"), a county political party committee registered with the New Jersey Election Law Enforcement Commission, made and failed to disclose excessive in-kind contributions to Peter DeStefano for Congress ("DeStefano Committee"), the principal campaign committee of Peter DeStefano. DeStefano, a candidate in the 2010 General Election for U.S. House of Representatives in the 3rd Congressional District of New Jersey, ran under the slogan "NJ Tea Party," and qualified for the ballot by filing a petition for direct nomination on June 8, 2010.

Based upon two published reports (attached to the complaint), the complaint alleges that CCDC paid its employees, Bill Moen and Matt White, and a consultant, Steve Ayscue, and his firm, Haddon Capital Ventures, LLC ("HCV"), to organize and participate in the solicitation of signatures to qualify DeStefano for the ballot, thereby making excessive contributions to DeStefano that CCDC did not report. According to the complaint, CCDC's alleged payments to employees to assist DeStefano were in amounts sufficient to require CCDC to register with the Commission as a political committee and report the contributions, which it failed to do. CCDC's

1 response contends that even if it lent support to DeStefano in his efforts to qualify for the ballot,
2 that support was not a "contribution" to "a political committee," and the value of any alleged
3 support did not rise to the level of an excessive contribution or trigger the registration and
4 reporting obligations of the Federal Election Campaign Act of 1971, as amended (the "Act").
5 CCDC Response at 2-3. The joint response of Bill Moen, Matt White and Steve Ayscue, also
6 denies that there was a "contribution" under the Act even assuming CCDC paid them to organize
7 and solicit signatures for the DeStefano campaign. Moen *et al.* Response at 2.

8 Under the Act, no person may make a contribution to a candidate and his authorized
9 political committee with respect to any election for Federal office which, in the aggregate,
10 exceeds \$2,400 during the 2010 election cycle, and no candidate or authorized political
11 committee may knowingly accept such a contribution. 2 U.S.C. §§ 441a(a)(1) and (f). The Act
12 defines "contribution" as the provision of something of value "for the purpose of influencing any
13 election for Federal office," and includes the "payment by any person of compensation for the
14 personal services of another person which are rendered to a political committee without charge
15 for any purpose." 2 U.S.C. §§ 431(8)(A)(i) and (ii). *See also* 11 C.F.R. § 100.52(d). Treasurers
16 of political committees are required to disclose all contributions. 2 U.S.C. § 434(b).

17 According to the complaint, CCDC made unreported contributions to the DeStefano
18 campaign pursuant to 2 U.S.C. § 431(8)(A)(ii). According to one published report, Ayscue
19 recruited a then unidentified man (later identified as DeStefano) to run as a third party candidate
20 to draw votes from Adler's Republican opponent. *See Dems Picked Spoiler Candidate,*

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1 www.CourierPostOnline.com, October 8, 2010. The report also states that Ayscue recruited
2 volunteers to collect petition signatures to place the third party candidate on the ballot. *Id.*
3 While neither published report attached to the complaint mentions CCDC employees Bill Moen
4 or Matt White, other published reports state that they participated in collecting signatures for
5 DeStefano's ballot petition. *See, e.g., Candidate "Plant" Insult To Voters*, www.app.com,
6 October 9, 2010.

7 The CCDC response maintains that the complaint is insufficient because it relies on
8 published reports that cite only anonymous sources. *See CCDC Response at 2.* The CCDC
9 response, however, does not specifically contradict the reports attached to the complaint. CCDC
10 disclosed no contributions to the DeStefano Committee, and the DeStefano Committee did not
11 disclose the receipt of any contributions from CCDC, or from any of the individuals allegedly
12 working to support or assist DeStefano in ballot efforts.

13 In the joint response submitted on behalf of Bill Moen, Matt White and Steve Ayscue,
14 they contend that their alleged work on behalf of DeStefano does not constitute "the payment by
15 any person of compensation for the personal services of another person which are rendered to a
16 political committee without charge for any purpose" because the benefits they conferred "were
17 indisputedly done in exchange for compensation." Moen *et al.* Response at 2. These responses
18 suggest that a contribution to DeStefano, if any, would come not from the individuals but rather
19 from the employers who paid the individuals for the work. *See 2 U.S.C. § 431(8)(a)(ii).* For this
20 reason and because Messrs. Moen and White are not alleged to have made any payments, they do
21 not appear to have made contributions to the DeStefano Committee.

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1 CCDC contends that the alleged support that it rendered DeStefano occurred before
2 DeStefano created a principal campaign committee. CCDC Response at 2. Therefore, according
3 to CCDC, there was no existing "political committee" to which the alleged services could have
4 been provided. *Id.* Even if the conduct did not fall within 2 U.S.C. § 431(8)(a)(ii) as to the
5 DeStefano Committee, however, it fell within the definition of contribution, as "anything of
6 value" given for the purpose of influencing any election for Federal Office. *See* 2 U.S.C.
7 § 431(8)(A)(i).

8 Moreover, if it paid its employees to collect signatures for DeStefano's campaign, CCDC
9 made expenditures within the meaning of 2 U.S.C. § 431(9)(A)(i). *See* Advisory Opinion 1994-
10 05 (White) (expenses incurred in gathering signatures to qualify for a ballot are expenditures);
11 Advisory Opinion 2006-20 (Unity 08) (payments to obtain ballot access through petition drives
12 are expenditures) (vacated on other grounds by *Unity08 v. F.E.C.*, 596 F.3d 61 (D.C. Cir. 2010));
13 MUR 5581 (Nader for President 2004), Factual and Legal Analysis at 4 n.6 (amounts spent on
14 obtaining signatures for candidate to appear on general election ballot are expenditures).
15 If CCDC coordinated its activities with DeStefano, then these expenditures were in-kind
16 contributions to his campaign. *See* MUR 5783 (Carl Romanelli for U.S. Senate) (payments
17 made for ballot petitioning efforts that were coordinated with candidate constituted in-kind
18 contributions). Even if CCDC did not coordinate its activities with DeStefano, CCDC would
19 still have an obligation to report the independent expenditures if they were greater than \$250.
20 *See* 2 U.S.C. § 434(c).

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1 CCDC appears to meet the definition of a "local committee of a political party," that is,
2 an organization that by virtue of the by-laws of a political party or the operation of State law is
3 part of the official party structure, and is responsible for the day-to-day operation of the political
4 party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision
5 of a State. *See* 11 C.F.R. § 100.14(b). CCDC's name and the activities reflected on its state
6 disclosure reports appear to support this conclusion. Any local committee of a political party
7 that makes contributions or expenditures aggregating in excess of \$1,000 during a calendar year
8 meets the definition of a political committee. 2 U.S.C. § 431(4)(C). Political committees must
9 file a Statement of Organization with the Commission within 10 days of meeting the threshold
10 definition found in 2 U.S.C. § 431(4)(C), and must file reports that comply with 2 U.S.C. § 434.
11 2 U.S.C. §§ 433(a), 434(a)(1).

12 CCDC's state disclosure reports show that it paid Moen and White together a total of
13 \$2,017.44 for the two-week period between May 26, 2010, the date of the May 2010 meeting
14 referenced in the published reports attached to the complaint, and June 8, 2010, the date stated in
15 the complaint that DeStefano qualified for the ballot, after which he no longer would have
16 required Moen and White's alleged assistance in the form of a petition drive. The payroll
17 amounts paid to Moen and White during this time period were consistent with the amounts they
18 received both before and after their alleged assistance to the DeStefano campaign.
19 Moreover, New Jersey law requires only 100 petition signatures to place a candidate such as
20 DeStefano, running as an independent, on the ballot, which may not take a significant amount of
21 time to gather. *See* N.J.S.A. § 19:13-5 (1986). While it is unknown how much time Messrs.
22 White and Moen may have spent gathering signatures, it appears unlikely that the full \$2,017.44

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1 in salary that CCDC paid them during the signature-gathering period, or even a substantial
2 portion thereof, would have been attributable to these activities.¹ While the Commission could
3 investigate whether CCDC's payments for these efforts exceeded the \$1,000 threshold for
4 political committee status under the circumstances, where the alleged conduct appears to have
5 involved a limited amount of work over a short period of time, it does not appear that such an
6 investigation would be a good use of the Commission's resources. For the same reason, it does
7 not appear that it would be a good use of the Commission's resources to determine whether
8 CCDC coordinated its activities with the DeStefano Committee.

9 CCDC also used the consulting services of HCV, Steve Ayscue's company. The first
10 published report the complaint relies on identifies Ayscue as a "paid CCDC consultant."
11 See Complaint, Exhibit 1. CCDC's state disclosure reports show a \$132.02 "reimbursement"
12 payment for "meetings/means exp" to HCV's Steve Ayscue on June 18, 2010, which may
13 represent the payment for Ayscue's efforts pertaining to seeking volunteers for the petition
14 project.² Even if this amount corresponds to the May 2010 meeting, it would not constitute an
15 excessive contribution, see 2 U.S.C. § 441a(a), or aid enough to warrant investigating the
16 political committee status allegation.

¹ The CCDC Response to the complaint references \$4,344.80 that Messrs. Moen and White were paid in total by CCDC on May 28 and June 11, 2010, recognizing that the latter payments were made after the June 8 date that DeStefano became a candidate according to the complaint. CCDC Response at 2. CCDC asserts that even if the entire \$4,344.80 were applied to Moen and White's signature-gathering efforts, it would fall short of the \$5,000 political committee status threshold for exempt activity. *Id.* at 2-3; see 2 U.S.C. § 431(4)(C). However, the political committee status threshold is \$1,000 in expenditures. 2 U.S.C. § 431(4)(C).

² CCDC also disclosed "consulting services expenses" payments to HCV, Mr. Ayscue's firm, starting on October 5, 2010 in the amount of \$5,000, several months after DeStefano qualified for the ballot.

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1 The complaint also alleges that Ayscue operated DeStefano's website, Twitter account,
2 and Facebook page. The second published report upon which the complaint relies, however,
3 states only that an unidentified "county Democratic employee is running at least the Web
4 elements of DeStefano's campaign." See Complaint, Exhibit 2. The CCDC response did not
5 address this allegation. Even if Ayscue ran the DeStefano campaign's web activities, a review of
6 the sites themselves suggests that any resulting in-kind contribution would be minimal.

7 In view of the above, the Commission exercises its prosecutorial discretion and dismisses
8 the allegations that Camden County Democratic Committee violated 2 U.S.C. §§ 433, 434(a) and
9 (b) and 441a(a). See *Heckler v. Chaney*, 470 U.S. 821 (1985).

10 CCDC employees Bill Moen and Matt White are alleged to have solicited signatures to
11 qualify Mr. DeStefano for the ballot. Even if true, this activity would have taken place in their
12 capacity as employees of CCDC. Thus, any alleged contribution to the DeStefano Committee
13 based on the activity of Messrs. Moen and White would have come from CCDC rather than from
14 the individuals. Therefore, the Commission finds no reason to believe that Bill Moen or Matt
15 White violated 2 U.S.C. § 441a(a).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR 6400

RESPONDENT: Haddon Capital Ventures, LLC

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by the New Jersey Republican State Committee. See 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

The complaint alleges that Adler for Congress and Richard Sexton, in his official capacity as treasurer ("Adler Committee"), the principal campaign committee of former Congressman John H. Adler, and Camden County Democratic Committee ("CCDC"), a county political party committee registered with the New Jersey Election Law Enforcement Commission, made and failed to disclose excessive in-kind contributions to Peter DeStefano for Congress ("DeStefano Committee"), the principal campaign committee of Peter DeStefano. Both Adler and DeStefano were candidates in the 2010 General Election for U.S. House of Representatives in the 3rd Congressional District of New Jersey; Adler was the Democratic nominee and DeStefano, running under the slogan "NJ Tea Party," qualified for the ballot by filing a petition for direct nomination on June 8, 2010.

Based upon two published reports (attached to the complaint), the complaint alleges that the Adler Committee and CCDC paid a consultant, Haddon Capital Ventures, LLC ("HCV"), and/or its owner, Steve Ayscue, to organize and participate in the solicitation of signatures to qualify DeStefano for the ballot, thereby making excessive contributions to DeStefano. In addition, the complaint alleges that HCV and/or Steve Ayscue operated DeStefano's website,

1 Twitter account, and Facebook page. The response of Steve Ayscue denies that there was a
2 "contribution" under the Federal Election Campaign Act of 1971, as amended (the "Act").
3 Ayscue Response at 2.

4 Under the Act, no person may make a contribution to a candidate and his authorized
5 political committee with respect to any election for Federal office which, in the aggregate,
6 exceeds \$2,400 during the 2010 election cycle, and no candidate or authorized political
7 committee may knowingly accept such a contribution. 2 U.S.C. §§ 441a(a)(1) and (f). The Act
8 defines "contribution" as the provision of something of value "for the purpose of influencing any
9 election for Federal office," and includes the "payment by any person of compensation for the
10 personal services of another person which are rendered to a political committee without charge
11 for any purpose." 2 U.S.C. §§ 431(8)(A)(i) and (ii). *See also* 11 C.F.R. § 100.52(d). Treasurers
12 of political committees are required to disclose all contributions. 2 U.S.C. § 434(b).

13 According to one published report, Ayscue recruited a then unidentified man (later
14 identified as DeStefano) to run as a third party candidate to draw votes from Adler's Republican
15 opponent. *See Dems Picked Spoiler Candidate*, www.CourierPostOnline.com, October 8, 2010.
16 The report also states that Ayscue recruited volunteers to collect petition signatures to place the
17 third party candidate on the ballot. *Id.*

18 The DeStefano Committee did not disclose the receipt of any contributions from HCV
19 and/or Ayscue.

20 Based on the available information, including that Mr. Ayscue has not denied his
21 involvement in efforts supporting the DeStefano campaign, it appears that there may have been
22 an in-kind contribution from the Adler Committee to the DeStefano campaign. *See* 2 U.S.C.

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1 § 431(8)(A)(i); 11 C.F.R. § 100.52(d). However, even if Mr. Ayscue sought volunteers to assist
2 with the DeStefano campaign, the value of any resulting alleged in-kind contributions from the
3 Adler Committee, as payor of HCV, would be both difficult to measure and insubstantial.

4 In the response submitted by Steve Ayscue, he contends that his alleged work on behalf
5 of DeStefano does not constitute “the payment by any person of compensation for the personal
6 services of another person which are rendered to a political committee without charge for any
7 purpose” because the benefits conferred “were indisputedly done in exchange for compensation.”
8 Ayscue Response at 2. This response suggests that any contribution to DeStefano would come
9 not from the individuals but rather from the individuals’ employers who paid the individuals for
10 the work. See 2 U.S.C. § 431(8)(a)(ii).

11 CCDC also used the consulting services of HCV, Steve Ayscue’s company. The first
12 published report the complaint relies on identifies Ayscue as a “paid CCDC consultant.”
13 See Complaint, Exhibit 1, and Ayscue Response. CCDC’s state disclosure reports show a
14 \$132.02 “reimbursement” payment for “meetings/means exp” to HCV’s Steve Ayscue on
15 June 18, 2010, which may represent the payment for Ayscue’s efforts pertaining to seeking
16 volunteers for the petition project.¹ Even if this amount corresponds to the May 2010 meeting, it
17 would not constitute an excessive contribution, see 2 U.S.C. § 441a(a).

18 The complaint also alleges that Ayscue operated DeStefano’s website, Twitter account,
19 and Facebook page. The second published report upon which the complaint relies states only
20 that an unidentified “county Democratic employee is running at least the Web elements of

¹ CCDC also disclosed “consulting services expenses” payments to HCV, Mr. Ayscue’s firm, starting on October 5, 2010 in the amount of \$5,000, several months after DeStefano qualified for the ballot.

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1 DeStefano's campaign." See Complaint, Exhibit 2. Even if Ayscue ran the DeStefano
2 campaign's web activities, a review of the sites themselves suggests that any resulting in-kind
3 contribution would be minimal.

4 HCV, the firm owned by Steve Ayscue, is alleged to have provided assistance to the
5 DeStefano campaign. Even if true, this activity would have taken place in its capacity as the
6 paid consultant of the Adler Committee or CCDC. Thus, any alleged contribution to the
7 DeStefano Committee based on the activity of HCV would have come from the Adler
8 Committee or CCDC, rather than from HCV. Therefore, the Commission finds no reason to
9 believe that Haddon Capital Ventures, LLC violated 2 U.S.C. § 441a(a).

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